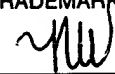




UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/258,129 02/26/99 LAYNE

H F0375DT-US

PM92/0619
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WASHINGTON DC 20036

EXAMINER

CANFIELD, R

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 06/19/00



Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/258,129

Applicant(s)
Layne

Examiner
Robert Canfield

Group Art Unit
3635



☒ Responsive to communication(s) filed on Apr 6, 2000

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-3, 5-9, and 11-27 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☒ Claim(s) 1-3, 5-9, 11-17, 20, and 23-27 is/are allowed.

☒ Claim(s) 18, 19, 21, and 22 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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1. This Office action is in response to the amendment filed 04/06/00. Claims 1-3, 5-9 and 11-27 are pending. Claims 4 and 10 have been canceled by amendment.
2. The drawings are objected to because the top view in figure 3 is missing semi-circular lines to designate the cross section ends of bars 22, 24, 26 and 28. Correction is required.
3. The proposed drawing correction filed on 04/06/00 is NOT approved. The sheet must include "Amended". See MPEP 1453. The proposed correction would otherwise be approved if resubmitted including "Amended".
4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
5. Claims 19 and 22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 19 and 22 "said first and second vertical spacer members" lack a proper antecedent basis.

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6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claim 18 is rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 2,205,730 to Morgan.

The block shown in figure 4 has first and second metal plates spaced by a pair of vertical spacer members. A cavity is formed therebetween and a pair of end cavities are formed.

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 2,205,730 to Morgan.

The blocks shown in figure 4 has first and second metal plates spaced by a pair of vertical spacer members. A cavity is formed therebetween.

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Morgan fails to provide that one of the plates is provided with holes for receiving a threaded connector.

The examiner takes Official Notice that is extremely well known in the building arts to provide a hole in a wall to secure a fastener thereto and that it would have been obvious at the time of the invention to one having ordinary skill in the art to have provided holes in the walls of the block of Morgan if one wished to attach a bracket.

10. Claims 1-3, 5-9, 11-17, 20, and 23-27 are allowed.

11. Claims 19 and 22 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112 set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

12. Applicant's arguments filed 04/06/00 have been fully considered but they are not persuasive.

In response to applicant's argument that the block of Morgan is not intended to be used with conventional concrete blocks, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making,

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the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963).

13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

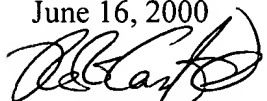
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Canfield whose telephone number is (703) 308-2482. The examiner can normally be reached on M-Th.

The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3597.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168.

Robert Canfield
June 16, 2000



Robert Canfield
Primary Examiner